

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 18TH DAY OF SEPTEMBER 2015/27TH BHADRA, 1937

WP(C) .No. 28450 of 2015 (E)

PETITIONER(S) :-

1. SRI. GEORGE THOMAS, AGED 57 YEARS
S/O. THOMAS, THALPARAMBIL HOUSE, MEENCUT KARA
PALLIVASAL VILLAGE, DEVIKULAM TALUK.
2. THRESIAMMA, AGED 50 YEARS
W/O. GEORGE THOMAS, THALIPARAMBIL HOUSE, MEENCUT KARA
PALLIVASAL VILLAGE, DEVIKULAM TALUK.

BY ADVS.SRI.SIRAJ KAROLY
SRI.R.PARAMESWARA IYER

RESPONDENT(S) :-

1. THE SUB INSPECTOR OF POLICE
VELLATHOOVAL POLICE STATION, IDUKKI DISTRICT
PIN - 686 127.
2. CIRCLE INSPECTOR OF POLICE
MUNNAR, IDUKKI DISTRICT - 686 117.
3. DISTRICT POLICE CHIEF,
IDUKKI, IDUKKI DISTRICT - 686 117.
4. ASSISTANT EXECUTIVE ENGINEER (IN-CHARGE)
KERALA STATE ELECTRICITY BOARD LTD.,
GENERATION DIVISION, CHITHIRAPURAM P.O,
MUNNAR, IDUKKI DISTRICT - 686 068.
5. THE DEPUTY CHIEF ENGINEER
KERALA STATE ELECTRICITY BOARD LTD
GENERATION DIVISION, CHITHIRAPURAM P.O, MUNNAR
IDUKKI DISTRICT - 686 068.

R1 TO R3 BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN
R4 & R5 BY SRI.SAJEEVKUMAR K.GOPAL, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 18-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

WP(C) .No. 28450 of 2015 (E)

APPENDIX

PETITIONER(S) ' EXHIBITS :-

EXHIBIT P1 : TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY
THE PANCHAYATH SECRETARY DT.6-1-2012.

EXHIBIT P2 : TRUE COPY OF THE PLAINT IN O.S NO 226/2010 DATED
13-09-2010.

EXHIBIT P3 : TRUE COPY OF THE INTERIM INJUNCTION ORDER DATED
14-09-2010.

EXHIBIT P4 : TRUE COPY OF THE JUDGMENT IN W.P(C) NO 31163 OF
2014 DATED 8-12-2014.

EXHIBIT P5 : TRUE COPY OF THE ORDER DATED 23-12-2014.

EXHIBIT P6 : TRUE COPY OF THE JUDGMENT IN W.P(C) NO 3598 OF
2015 DATED 4-2-2015.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

**ASHOK BHUSHAN, C.J &
K. VINOD CHANDRAN, J.**

W.P.(C) No.28450 of 2015

Dated this the 18th day of September 2015

J U D G M E N T

Ashok Bhushan, CJ.

Heard the learned counsel for the petitioners, the learned State Attorney as well as the learned counsel appearing for the Kerala State Electricity Board.

2. This writ petition has been filed by the petitioners alleging police harassment. It is submitted that the suit filed by the petitioners against respondents 4 and 5 before the Munsiff's Court, Devikulam seeking prohibitory injunction has been transferred to the Tribunal dealing with the Munnar eviction cases. The petitioners, alleging police harassment, had earlier filed a writ petition, W.P.(C) No.3598 of 2015, which was dismissed by this Court on 4.2.2015. Paragraphs 3 and 4 of the said judgment read as under :-

“3. Though the petitioner complains about the action taken by the 4th respondent, no specific allegation has been made against respondent Nos.1 to 3.

-: 2 :-

4. Learned Government Pleader on instructions would submit that since the suit was dismissed for default, the Electricity Board has already taken possession of the premises after notice to the petitioners. The building in the property has already been demolished. This aspect has been admitted by the learned counsel appearing for the 4th respondent also. But the learned counsel for the petitioners dispute the aforesaid fact."

3. Learned counsel for the petitioners submit that the police, at the instance of respondents 4 and 5, are coming to the petitioners' property and harassing them. It is submitted that the earlier writ petition was dismissed since there was no specific allegations made by the petitioners.

4. We have heard the learned counsel for the parties and perused the records.

5. Learned State Attorney has submitted that the police, after receiving a written request from the Kerala State Electricity Board, had visited the spot. The learned Standing Counsel for the KSEB states that they are now in possession of the property since the suit was dismissed.

6. The learned counsel for the petitioners argues that when the suit is restored, so also are the interim orders.

7. We have to specifically notice that the learned Single Judge noticed that fact that the suit was dismissed for default on 15.11.2014 and the 2nd petitioner/plaintiff was dispossessed on 19.11.2014. That is a substantial question of fact which would have to be substantiated before the Civil Court.

Under such circumstances, we are of the view that, the police visiting the petitioners' property on the request of the Kerala State Electricity Board cannot be said to be an instance of harassment. As earlier noticed, in the impugned judgment, the learned Single Judge has recorded in paragraph 4, as extracted above, that the Board has already taken possession of the premises, which fact was not disputed by the learned counsel for the petitioners. Since the issue pertains to right of property or any other orders issued in that regard, that can be taken up before the Court where, the suit is pending. This Court would not interfere on such matters, especially

W.P.(C) No.28450 of 2015

-: 4 :-

since, that cannot be adjudicated or decided in a police harassment matter.

With the above observation, this writ petition is closed.

**Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE**

**Sd/-
K. VINOD CHANDRAN
JUDGE**

Jvt/19.9.2015.